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Arizona Corporation Commission
AZ CORP COMMISSION
DOCKET CONT **DOCKETED**

APR 2 2009

DOCKETED BY

Douglas G. Martin – 004233
MARTIN & BELL, L.L.C.
365 East Coronado Road, Suite 200
Phoenix, Arizona 85004
Telephone: (602) 230-0030

Attorneys for WILHOIT WATER COMPANY,
INC

BEFORE THE ARIZONA CORPORATION COMMISSION

In the Matter of THE APPLICATION OF
WILHOIT WATER COMPANY, INC. FOR
APPROVAL OF AN EMERGENCY RATE
INCREASE

02064A
Docket Nos. W-02369A-08-0592

**SUPPLEMENTAL REPORT TO
ADMINISTRATIVE LAW JUDGE**

The Court indicated concern about the health of one of the Owner-Officers. The pacemaker installation went well.

The Court requested information related to Yavapai County taxes. There are three systems with delinquencies that will be retired by monthly payments consistent with the March 26, 2009 form agreement from the Yavapai County Treasurer, executed by Wilhoit Water, through its officer, March 30, 2009 (Exhibit A). A supplemental letter is attached to clarify the contractual intent (Exhibit B).

Throughout these proceedings, from time to time, questions have been raised about the Avondale issue, a separate system now controlled by the City of Avondale, where the transaction closed some four years and four months ago. Attached is confirming correspondence indicating that that matter nears resolution with the Maricopa County Treasurer through the good offices of the City of Avondale (Exhibit C).

1 Last, as to the water from the City of Prescott, the Prescott patience is reaffirmed
2 in the attached e-mail (Exhibit D).

3 DATED this 2nd day of April, 2009.

4 MARTIN & BELL, L.L.C.

5
6 By 

7 Douglas G. Martin
8 365 East Coronado Road, Suite 200
9 Phoenix, Arizona 85004
10 Attorneys for Wilhoit Water Company

11 ORIGINAL filed with copies
12 mailed/delivered this 2nd day
13 of April, 2009 to:

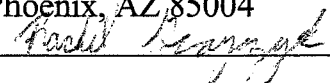
14 Jim West
15 WEST & COMPANY, L.L.C.
16 365 East Coronado Road, Suite 200
17 Phoenix, AZ 85004

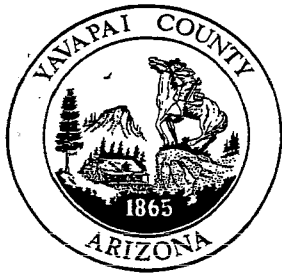
18 Christopher Kempley, Chief Counsel
19 Legal Division
20 ARIZONA CORPORATION COMMISSION
21 1200 West Washington Street
22 Phoenix, AZ 85007

23 Ernest G. Johnson, Director
24 Utilities Division
25 ARIZONA CORPORATION COMMISSION
26 1200 West Washington Street
Phoenix, AZ 85007

Lyn Farmer, Chief
Hearing Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Arizona Reporting Service, Inc.
2200 North Central Avenue, Suite 502
Phoenix, AZ 85004





YAVAPAI COUNTY TREASURER

1015 Fair Street
Prescott, AZ 86305
www.co.yavapai.az.us
(928) 771-3233
Fax (928) 771-3390

Ross D. Jacobs
Treasurer
A
Sara L. Davis
Chief Deputy

March 26, 2009

I, Wilhoit Water Company do hereby certify that I plan to make monthly partial payments on my taxes for parcel and/or taxpayer number 929-25-120, 929-95-131, 929-92-240, 929-92-340, 929-90-190, 929-92-290, 929-92-280 & 929-29-901 in the total amount of \$696.02 per month. I would like my due date to be the 1st of each month, to start May, 2009.

I understand the following:

* Non-payment of my partial payment could mean my property would be subject to a tax sale or seizure and sale by the Sheriff's office, for the remaining balance.

* No payment stubs or reminders will be sent to me for the monthly payments. Receipts will only be sent upon request with each payment.

If for some reason I am unable to make my monthly payment, I will contact the Treasurer's Office (928-771-3233).

[Signature]
Signature _____ Date 3-30-09

Breakdown of Amount Due

(See breakdown attached for the above account numbers)

My current address is:

Martin & Bell
% Jim West
365 E. Coronado, Ste 200
Phoenix, AZ 85004

602-230-0030
Area code and phone number

Breakdown Of Amounts To Be Paid

Yavapai Mobile Home Estates - 929-95-120, 929-95-131 and 929-92-240

Debt of \$24,148.04

96 monthly payment of \$251.54

Thunderbird Meadows - 929-92-340 and 929-90-190

Debt of \$34,688.56

96 monthly payments of \$361.34

Blue Hills #3 - 929-92-290, 929-92-280 and 929-29-901

Debt of \$7,981.31

96 monthly payments of \$83.14

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PHOENIX, ARIZONA 85004

www.martin-bell.com

April 1, 2009

LEGAL ASSISTANTS

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NMARTIN@MARTIN-BELL.COM

Ross D. Jacobs
Yavapai County Treasurer
1015 Fair Street
Prescott, AZ 86305

Re: Wilhoit Water Company

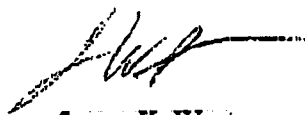
Dear Mr. Jacobs:

Our purpose, of course, is to continue water service for those Yavapai County residents that are subject to the company's areas of service. We have a status conference scheduled by the Arizona Corporation Commission for Thursday, April 2, 2009 at 2:00 p.m.

Ayesha Vohra, of the Arizona Corporation Commission, called Doug Martin, of our office, indicating that the Corporation Commission staff had reached a legal conclusion that the March 26, 2009 correspondence executed by David Conlin March 30, 2009, relating to back taxes, was not a binding agreement binding the Wilhoit Water Company. It is our understanding that Yavapai County drafted this form that you customarily use to resolve similar tax issues and that the intent was to create a binding agreement. That is how the Wilhoit Water Company understands it.

We do understand that the payments commence May 1, 2009 in the amounts set forth in the agreement. If this is also your understanding as to contractual formation, would you please initial this correspondence on behalf of Yavapai County and return it to us so that we can satisfy the legitimate concerns of the Arizona Corporation Commission?

Cordially,



James K. West

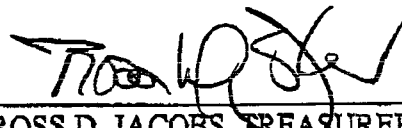
JKW/rdg

SIGNATURE ATTACHED

Ross D. Jacobs
April 1, 2009
Page 2

By execution of this correspondence, I hereby confirm that the purpose of the attached March 26, 2009 correspondence was to create a binding agreement between Yavapai County and Wilhoit Water Company.

Dated 4/2/09



ROSS D. JACOBS, TREASURER

C

*GUST
ROSENFELD*
ATTORNEYS SINCE 1921 P.L.C.

■ TOLL FREE 1-800-551-800 ■ PHOENIX, ARIZONA 85004-2327 ■ TELEPHONE 602-257-7422 ■ FACSIMILE 602-254-4878 ■

SARAH C. SMITH
Direct: 602-257-7458
Facsimile: 602-340-1538
ssmith@gustlaw.com

April 1, 2009

Ms. Vicki Wallace, Chief Consumer Services
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007-2927

Re: Wilhoit Water Company
Parcel Numbers 629-99-200 and 629-99-230
Docket No. W-02065A-03-0490

Dear Ms. Wallace:

This firm represents the City of Avondale (the "City") and Andrew McGuire serves as the City Attorney.

On December 1, 2003, Judge Amanda Pope's Opinion and Order stated that Wilhoit Water Company's ("Wilhoit") Application to Sell that area of the City known as Glenarm Farms (the "Glenarm Farms Systems") to the City is approved, conditioned upon the following four conditions:

1. Wilhoit shall file with the Arizona Corporation Commission (the "Commission") evidence that the outstanding tax liens and any subsequent accrual of interest have been satisfied before the close of escrow.
2. Wilhoit shall refund any outstanding customer deposits.
3. Wilhoit shall refund any outstanding main extension agreements.
4. Wilhoit shall file a Backflow Prevention Tariff for each of its other operating systems.

Ms. Vicki Wallace
Wilhoit Water Company
April 1, 2009
Page 2

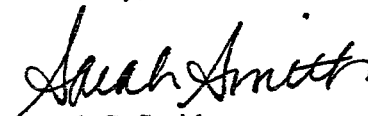
I have enclosed a Declaration from Anne Conlin, an officer of Wilhoit, stating that conditions two through four have been satisfied.

Andrew McGuire has been in contact with Mr. Charles "Hos" Hoskins at the Maricopa County Treasurer's Office regarding condition number one – the outstanding tax liability. Mr. Hoskins has stated that if the City sends a check for \$50,000.00 to Maricopa County to settle the remaining tax issue with respect to the Glenarm Farms System, then he has agreed to place the Abatement Resolutions on the Maricopa County Board of Supervisors (the "Board of Supervisors") agenda with a recommendation for approval.

Prior to the City sending a check for \$50,000.00 to the Board of Supervisors to resolve the outstanding tax liability, the City needs assurance that, upon receipt of the Abatement Resolutions from the Board of Supervisors, the Commission will (i) consider condition one above as satisfied, (ii) unconditionally approve the sale of the Glenarm Farms System and (iii) close the Commission's case and that portion of Wilhoit's Certificate of Convenience and Necessity authorizing the provision of water services to the Glenarm Farms System will be canceled without further Order of the Commission.

Thank you again for your time and attention to this important matter. Please contact me if you have any questions or if you require further information.

Sincerely,



Sarah C. Smith
For the Firm

Enclosure

cc: (via e-mail only):

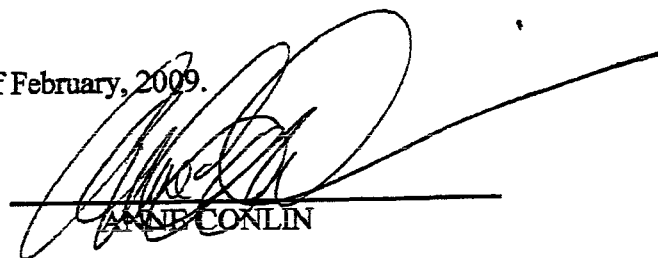
Charles McClendon, City Manager
Dave Browning, Maricopa County Treasurer's Office
Doug Martin, Martin & Bell, counsel to Wilhoit

DECLARATION OF ANNE CONLIN

Anne Conlin declares as follows:

- 1) I am an officer of Wilhoit Water and hold the office of Vice-President.
- 2) I have the authority to make this Declaration based upon my review of the operating records of Wilhoit Water Co., previously managed by my now deceased uncle, Robert Conlin.
- 3) I am aware of the September 1, 2003 Order of Administrative Law Judge Amanda Pope including conditions for approval of the sale of the water system to the City of Avondale sale.
- 4) I am informed that the City of Avondale is directly handling the outstanding real property tax issue set forth in Paragraph One for assets Avondale new owner.
- 5) Based on my review of the records, Wilhoit has done the refunding required concerning outstanding customer deposits and main extension agreements. Pursuant to Paragraphs Two and Three of that same Order, I see that Wilhoit has filed a Back Flow Prevention Tariff for each of the operating systems.

EXECUTED on the 26th day of February, 2009.



ANNE CONLIN

Jim West

From: Nietupski,Mark [mark.nietupski@prescott-az.gov]
Sent: Thursday, March 26, 2009 1:36 PM
To: jimwest@martin-bell.com
Cc: Dotseth,Craig
Subject: RE: Wilhoit Water Co.

Jim,

Thank you for the follow-up and pledge to keep the City informed of your progress to resume delivery of potable water to your customers. The City anticipates Wilhoit will methodically pursue completion of the necessary arsenic treatment by June/July 2009.

Mark Nietupski
Director of Public Works

From: Jim West [mailto:jimwest@martin-bell.com]
Sent: Thursday, March 26, 2009 8:57 AM
To: Nietupski,Mark
Subject: Wilhoit Water Co.

Mark,

It was good to speak with you yesterday and we all appreciate the efforts made by the City of Prescott to supply water to our customers.

As we discussed, I will keep you apprised of the progress to install an arsenic treatment system for Yavapai Estates. At this point, we are awaiting regulatory approval from the Corporation Commission to issue the debt to pay for the system. Fann Environmental has designed the system and will be doing the installation.

As we move forward, please let me know if you have any questions or concerns.

Jim West
Martin & Bell LLC
602.230.0030

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3/27/2009